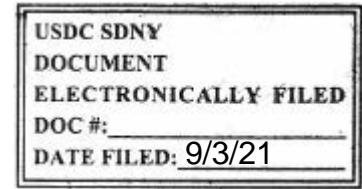UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

United States of America,

      –v–

Ralph Berry,

          Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:_____
DATE FILED: 9/3/21

20-cr-84 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On August 31, 2021, Defendant Berry filed a letter motion seeking a bill of particulars as to Count Three of the Superseding Indictment. Dkt. No. 103. The Court ordered the Government to respond, and it filed its letter response on September 1, 2021. Dkt. No. 105.
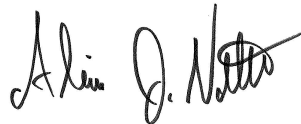
"A bill [of particulars] is appropriate to permit a defendant 'to identify with sufficient particularity the nature of the charge pending against him, thereby enabling defendant to prepare for trial, to prevent surprise, and to interpose a plea of double jeopardy should he be prosecuted a second time for the same offense.'" *United States v. Davidoff*, 845 F.2d 1151, 1154 (2d Cir. 1988) (quoting *United States v. Bortnovsky*, 820 F.2d 572, 574 (2d Cir.1987) (per curiam)). Defendant contends that the Superseding Indictment refers to an enterprise that "took place an unspecified number of years ago and for an undisclosed period of time." Dkt. No. 103 at 2. But as the Government's response outlines, it has already disclosed the prior criminal acts and approximate dates on which they occurred in its Rule 16 discovery, Section 3500 materials, and recent motion *in limine*. Dkt. No. 105 at 1–2. The Court thus finds the Government's disclosures, as set forth in its September 1 letter, are sufficient to inform the defendant of the nature of the charge pending against him and a bill of particulars is not warranted. *See United States v. Walsh*, 194 F.3d 37, 47 (2d Cir. 1999) ("[A] bill of particulars is not necessary where the government has made sufficient disclosures concerning its evidence and witnesses by other

means.").

The letter motion seeking a bill of particulars is therefore DENIED. This resolves Dkt. No. 103.

SO ORDERED.

Dated: September 3, 2021
        New York, New York

_____
        ALISON J. NATHAN
    United States District Judge

2